

United States Courts  
Southern District of Texas  
FILED

**United States Court of Appeals  
for the Fifth Circuit**

December 04, 2023

Nathan Ochsner, Clerk of Court

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No. 23-20163

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

BRIAN SWIENCINSKI,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 23-20326

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

SCOTT BREIMEISTER,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:18-CR-368-2

No. 23-20163  
c/w No. 23-20326

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ORDER:

IT IS ORDERED that Appellant's unopposed motion to view and obtain sealed documents is GRANTED.

/s/ Dana M. Douglas  
DANA M. DOUGLAS  
*United States Circuit Judge*

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

December 04, 2023

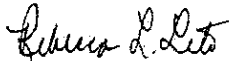
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 23-20326 USA v. Breimeister  
USDC No. 4:18-CR-368-2

The court has considered the motion of Scott Breimeister to view non-public and/or sealed material in the record on appeal. Unless the court granted access to one or more specific documents ONLY, it is ordered, counsel for Scott Breimeister may obtain all ex parte documents *filed on behalf of* Scott Breimeister, and all other non ex parte documents in the record. The non-public and/or sealed materials from the record are for your review ONLY. The integrity of the sealed documents is your responsibility, and if provided in original paper, return to the district court as soon as it has served your purpose.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Rebecca L. Leto, Deputy Clerk  
504-310-7703

Ms. Samantha Bateman  
Mr. Brandon Nelson McCarthy  
Ms. Carmen Castillo Mitchell  
Mr. Nathan Ochsner  
Ms. Rachel Malone Riley  
Mr. Jeremy Raymond Sanders  
Mr. Josh Barrett Schaffer  
Mr. Robert Thomas Smith  
Mr. Michael A. Villa Jr.

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,	§	
Plaintiff – Appellee	§	
	§	
V.	§	CAUSE NO. 23-20326
	§	
SCOTT BREIMEISTER,	§	
Defendant – Appellant	§	

**APPELLANT’S UNOPPOSED MOTION  
TO VIEW AND OBTAIN SEALED DOCUMENTS**

Scott Breimeister files Appellant’s Unopposed Motion To View And Obtain Sealed Documents and would show as follows:

I.

This is an interlocutory appeal from the district court’s denial of appellant’s motion to bar a retrial based on double jeopardy. His brief is due on December 26, 2023.

II.

Some important pleadings relevant to the appeal were filed under seal in the district court. Appellate counsel must view them to prepare the brief and cite to the pertinent portions of the record.

**CONCLUSION**

Appellant respectfully requests that the Court grant this motion and order the district clerk to give counsel access to all the sealed documents to prepare the brief.

Respectfully submitted,

/s/ Josh Schaffer

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Attorney for Appellant  
SCOTT BREIMEISTER

**CERTIFICATES OF CONFERENCE AND SERVICE**

I conferred with Samantha Bateman, appellate counsel for the Department of Justice, by electronic mail on November 29, 2023. She told me that the Government does not oppose this request. I served a copy of this document on her by electronic filing on November 29, 2023.

/s/ Josh Schaffer

Josh Schaffer

**CERTIFICATE OF COMPLIANCE**

This motion complies with the requirements in Rule 32(g)(1). It was prepared with Microsoft Word 365, uses Times New Roman 14-point font, and contains 118 words, exclusive of what is not counted in Rule 32(f).

/s/ Josh Schaffer

Josh Schaffer